

### **Section 10. Councilmen have Legislative Power Only.**

All legislative powers of the City shall be vested, subject to the terms of this Charter and the Constitution of the State of Texas, in the City Council; and no Councilman shall exercise any administrative powers or be the head of any department. (Added by amendment of August 15, 1942)

### **Section 11. Provision for Interest and Sinking Fund on Bonded Indebtedness in Budget.**

In making up the budget allowance for any current year, the City Council shall first make provision for the payment of the interest and the creation, setting aside and preservation of a legal sinking fund upon all of the outstanding bonded indebtedness of the city, and shall then make such appropriations as the remaining revenues of the city justify, to be apportioned among the respective departments, or otherwise appropriated for public uses, as to the Council may seem best; provided, however, that in no case shall the entire appropriation as made, which comprehends interest and sinking fund on the bonded debt, together with other public uses and purposes, ever exceed the estimated available resources, which shall be based upon the probable revenues of the city derived from ad valorem taxes upon the basis of the total valuation of the property for taxation for the preceding year, and of such other contingent revenues of the city as may probably accrue.

It shall be deemed a malfeasance for the City Council to make an appropriation in the budget the sum total of which shall exceed the estimated available or probable revenues for any current fiscal year. (Added by amendment of August 15, 1942)

### **Section 11a. Appropriation for emergency fund.**

The City Council at the time it makes the budget allowance for any current year, or at any subsequent time, may also appropriate a sum not to exceed Five Thousand Dollars (\$5,000.00) to be used by the Mayor as an emergency fund for any

current year, and for which he shall not be required to account. (Added by amendment July 26, 1947)

**Note**—The title of this section was added by the editor; it is not titled in the ordinance calling the 1947 Charter Election.

### **Section 12. Savings Clause.**

If any section, sub-section, clause, sentence or phrase of this article is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of this article. (Added by amendment August 15, 1942)

## **ARTICLE VII-a. RECALL OF OFFICERS.**

### **Section 1. Scope of Recall:**

The holder of any public office in the City of Houston, whether elected thereto by the people or appointed by the City Council, may be removed from office by recall. (Added by amendment October 15, 1913)

### **Section 2. Petition—Generally.**

All petitions for recall of any officer of the City of Houston, shall be instituted by filing with the City Secretary of a verified written petition requesting the removal of such officer, which said petition shall be signed by the qualified electors of the City of Houston, in number not less than twenty-five per cent. of the total vote cast at the Democratic Primary for the nomination of Mayor and Commissioners next preceding the filing of said petition. The signers of said petition shall also set opposite their respective names, the number of his residence, naming the street, and shall also state the day of the month and the year when such signature was affixed. (Added by amendment October 15, 1913)

**Note**—The title of this section was added by the editor; it was not titled in the Ordinance calling the 1913 Charter Election.

### **Section 3. Form of Petition:**

The form of petition above provided for shall be as follows:

**TO THE MAYOR AND CITY COUNCIL OF THE CITY OF HOUSTON:**

We, the undersigned hereto, who are qualified voters of the City of Houston, request the removal

of \_\_\_\_\_ from the office of \_\_\_\_\_ (petition shall set forth distinctly and specifically grounds showing or tending to show some ground of incompetency or unfitness for or misconduct or malfeasance in the office, upon which the petition for removal is predicated, and if there be more than one ground, shall specifically state each ground with such certainty as to give the officer sought to be removed, notice of the matters and things which he will be called to answer and if the officer sought to be recalled was nominated at a primary the petition shall state that each signer participated in said primary). Said petition shall be signed by the requisite number of voters as provided by Section 2 of this Article. Each signature to said petition shall be proved or acknowledged as required of petitioners by Article IX, Section 3 of this Charter, or shall be verified as follows.

STATE OF TEXAS, COUNTY OF HARRIS.)

I, \_\_\_\_\_, being first duly sworn on oath depose and say: that I am one of the signers of the above petition, that the statements made therein are true, and that each signature appearing thereto was made in my presence on the day and date it purports to have been made, and I solemnly swear that the same is a genuine signature of the person whose name it purports to be.

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 1913.

Notary Public in and for Harris County, Texas.

(Added by amendment October 15, 1913)

### **Section 3a. Various Papers, Certifications, Filing.**

The petition may consist of one or more papers circulated separately, and the signatures thereto may be upon the paper or papers containing the formal petition, or upon other papers attached thereto; each signer of a petition shall sign his name in ink or indelible pencil. The verification may be made by one or more petitioners, and the several parts of the petition may be verified separately and by different persons, but no signature to such petition shall remain effective or be

counted which was placed thereon more than thirty days prior to the filing of such petition or petitions with the City Secretary. All papers and documents comprising a single petition shall be filed with the Secretary on the same day, and the Secretary shall immediately notify in writing the officers sought to be removed. (Added by amendment October 15, 1913)

### **Section 4. Objection to Petition.**

Within ten days after the filing of petition, the incumbent whose removal is requested shall file with the City Secretary his objection in writing to the sufficiency of such petition, and he cannot thereafter contest its sufficiency upon any objection not so filed. Within five days after exceptions have been filed, if the petition is filed to remove an appointee of the council, then the City Council shall sit as a body to hear and determine the sufficiency of the objections, and the exceptions shall be sustained in the particulars in which the same are held to be sufficient, and the signers of said petition may amend said petition to meet the requirements of the ruling of the Council, and if the said objections go to the form and manner of the charge preferred it shall be necessary for said petition to be recirculated and signed anew, but if the objections go to the number of the signers, or the genuineness of the signatures, or the fact of the party signing being a qualified voter, and are sustained, then said petition shall be dismissed and the parties may immediately reinstitute a petition to remove said party.

Any member or members of the City Council against whom a petition is directed shall not be eligible to act in the matter of the determination of the sufficiency of said objections, but the remainder of said Council, if constituting a majority shall serve and act therein, and a majority of the votes of those members of the Council acting on the sufficiency of the petition shall control; provided, that should the petition be directed against a majority of the members of the City Council then same shall be presented to and acted upon by one of the District Judges of Harris County, Texas, whose decision on the sufficiency of said petition shall be final, and who, if he shall sustain said petition shall order the council to call a recall election to be held as provided in Section 7 hereof.

Any exceptions or objections to the sufficiency of the petition must be specific and definite and no general objections will be entertained. (Added by amendment October 15, 1913)

#### **Section 5. The Certificate of the Secretary.**

On or before the thirtieth day after the date of filing of the petition the City Secretary shall certify to the City Council (a) the greatest total vote cast for Mayor at any city general election held within three years next preceding the date of the filing of such petition, and (b) the number of valid signatures on said petition, and shall present such petition and certificate to the council. (Added by amendment October 15, 1913; amended November 5, 1991)

#### **Section 6. Amendment of Petition.**

If the petition is insufficient in respect to the matters charged against the officer sought to be removed, it may be withdrawn by the person filing it, and amended as many times as desired within twenty days of the time when objections are sustained thereto. The duty of the Secretary shall be the same with respect to any amended petition as with the original petition. (Added by amendment October 15, 1913)

#### **Section 7. Calling of Election. 25% of the Electors at Democratic Primaries in City must sign Petition.**

If the petition be signed as herein provided by qualified electors equal to twenty-five per cent. of the total vote cast at the Democratic Primary for the nomination of Mayor and Commissioners, next preceding the filing of such petition, and if it set forth the grounds of objection as provided in Section 3 hereof and same is not declared insufficient upon objection thereto as provided in Section 4 hereof, the Council within ten days after the final certification of the Secretary, unless the incumbent sought to be removed resigns within five days after such final certification, shall order a special election to be held on a day fixed in such order not less than forty days nor more than fifty days from the date of such final certification; provided, that if any municipal election is ap-

pointed to occur within ninety days from such final certification, the recall election shall not be held. (Added by amendment October 15, 1913)

#### **Section 8. Result of Election: Petition to Recall.**

If the person sought to be removed shall at said election be recalled, his tenure of office shall terminate upon the determination of the result of the election by the City Council, who shall examine, count and canvass the returns and declare the result as elsewhere provided in this Charter for other elections; and, if an appointed officer, his successor shall at once be appointed by the Mayor and City Council, as provided in this Charter, and if an elective officer, provision shall at once be made for the election of a successor to fill the vacancy, as elsewhere provided for in this Charter. (Added by amendment October 15, 1913)

#### **Section 9. Qualification of Recalled Officers.**

Any officer removed from office by recall election, or who shall resign from said office pending recall proceedings against him, shall not be appointed or elected to any city office or appointment within two years after his removal or resignation. (Added by amendment October 15, 1913)

#### **Section 10. Joinder of Several Officers in One Petition.**

Two or more officers subject to recall, as provided for in this amendment may be joined in one petition for removal, and one election may be held therefor. (Added by amendment October 15, 1913)

#### **Section 11. Limitation on filing petition.**

No petition for the recall of any officer shall be filed until eight months after the election or appointment and the qualification of such officer, nor shall there be more than one recall election in any one calendar year. (Added by amendment October 15, 1913)

**Note**—The title of this section was added by the editor; it was not titled in the Ordinance calling the 1913 Charter Election.